

**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of	)	
	)	
First Responder Network Authority	)	File No. 0010176495
	)	
Nationwide Public Safety Broadband Network	)	
	)	
Renewal of SP-700 MHz Public Safety	)	
Broadband Nationwide License Radio Service	)	
	)	
Station WQQE234	)	

**REPLY OF THE FIRST RESPONDER NETWORK AUTHORITY TO “OPPOSITION”  
COMMENTS REGARDING ITS APPLICATION FOR THE RENEWAL OF STATION  
WQQE234 LICENSE**

The First Responder Network Authority (FirstNet Authority) submits this reply<sup>1</sup> to two late-filed pleadings at the Federal Communications Commission (FCC or Commission)—one by T-Mobile<sup>2</sup> and the other by six members of the Verizon First Responder Advisory Council (VFRAC)<sup>3</sup>—concerning the FirstNet Authority’s application requesting renewal of the Station WQQE234 license pursuant to 47 U.S.C. § 1421(b)(2).

To begin with, these filings are untimely and, thus, procedurally defective. The FCC’s public notice about the FirstNet Authority’s license renewal application stated that interested parties with views on the license renewal were to file those views as “an informal request for

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<sup>1</sup> See 47 C.F.R. § 1.45(c).

<sup>2</sup> See Opposition of T-Mobile USA, Inc. (filed Oct. 3, 2022) (T-Mobile Opposition).

<sup>3</sup> See Letter from William Bratton, Salvatore Cassano, Jerome M. “Jerry” Hauer, Edward P. Plaugher, Charles H. Ramsey, and Karen P. Tandy to Marlene H. Dortch (filed Oct. 3, 2022) (Joint Letter). Although the letter does not state that it was submitted on behalf of Verizon, each of the signatories is a member of the VFRAC. See Verizon First Responder Advisory Council, available at [First Responder Advisory Council | Verizon](#).

Commission action in accordance with section 1.41 of the Commission's rules . . . no later than September 22, 2022.”<sup>4</sup> Both the T-Mobile Opposition and Joint Letter unmistakably offer their views on the FirstNet Authority's license renewal application after the prescribed deadline.<sup>5</sup>

Beyond their procedural failings, the filings are also substantively deficient. Much of the content is not germane to this license renewal proceeding and appears, particularly with respect to the T-Mobile Opposition, to be an attempt to disrupt a highly successful federal program that provides critical communications services to public safety across the country.<sup>6</sup> Indeed, T-Mobile itself states that it “does not oppose renewal of [the FirstNet Authority's] license,”<sup>7</sup> thereby tacitly acknowledging that the FirstNet Authority has satisfied its standard of review. Similarly, the Joint Letter makes no affirmative statement opposing the FirstNet Authority's license renewal application. While the FirstNet Authority disagrees with the specific claims and

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<sup>4</sup> *Public Safety and Homeland Security Bureau Announces Acceptance for Filing of First Responder Network Authority License Renewal Application*, PS Docket Nos. 12-94, 06-229, WT Docket No. 06-150, at 2 (rel. Aug. 23, 2022).

<sup>5</sup> The Joint Letter makes no secret about it, stating “[w]e appreciate the opportunity to share these views on FirstNet's license renewal application.” Joint Letter at 8. While T-Mobile tries to couch its filing as an opposition to the “initial filings” (T-Mobile Opposition at 1), upon a plain reading it is evident that, in fact, the filing provides T-Mobile's views directly on the FirstNet Authority's renewal application.

<sup>6</sup> The T-Mobile Opposition purports to speak for public safety, but the record is clear that public safety stakeholders strongly support the renewal of the FirstNet Authority's Band 14 license. *See* Views of APCO International Regarding the Application for the Renewal of Station WQQE234 License (filed Sept. 22, 2022); Comments of the Undersigned Fire and Emergency Services Organizations (Congressional Fire Services Institute, International Association of Fire Chiefs, International Association of Fire Fighters, National Fire Protection Association, and National Volunteer Fire Council) Re: First Responder Network Authority's Spectrum License Renewal (filed Sept. 22, 2022); Letter from the National Association of EMS Physicians to the Honorable Jessica Rosenworcel (filed Sept. 20, 2022); Letter from the National Association of Emergency Medical Technicians to the Honorable Jessica Rosenworcel (filed Sept. 19, 2022); Letter from the National Emergency Management Association to the Honorable Jessica Rosenworcel (filed Sept. 13, 2022).

<sup>7</sup> T-Mobile Opposition at 1.

requests made in the two filings, this reply focuses on the themes and overarching issues raised, many of which have already been addressed by the FirstNet Authority.<sup>8</sup>

### **1. Numerous Claims in the T-Mobile Opposition and Joint Letter Are Non-Germane and Misconstrue the Facts**

Both the T-Mobile Opposition and Joint Letter made uninformed, and largely irrelevant, assertions about transparency of the nationwide public safety broadband network (NPSBN) contract and partnership, FirstNet program oversight, FirstNet user eligibility, NPSBN interoperability, and marketplace competition. We address each of these topics in turn.

#### *NPSBN Contract and Partnership*

As explained in the FirstNet Authority Response, the structure of the FirstNet Authority program as a public-private arrangement via a contract between the federal government and a private sector partner is prescribed by statute.<sup>9</sup> Under its enabling Act,<sup>10</sup> the FirstNet Authority was required to partner with the private sector to build, operate, and maintain the network in order to leverage existing infrastructure, experience, and expertise.<sup>11</sup> In accordance with the Act, the FirstNet Authority engaged in a comprehensive, open, transparent, and competitive acquisition process that resulted in AT&T being selected as the private sector entity to partner with the federal government on the FirstNet project.<sup>12</sup> Other commercial carriers had an opportunity and were encouraged to participate in this process.

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<sup>8</sup> See Response of the First Responder Network Authority to Views on Its Application for The Renewal of Station WQQE234 License (filed Oct. 3, 2022) (FirstNet Authority Response).

<sup>9</sup> See FirstNet Response at 2-3.

<sup>10</sup> Title VI of the Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. §§ 1401-1457 (the Act).

<sup>11</sup> See 47 U.S.C. § 1426(a)-(c).

<sup>12</sup> The NPSBN contract is the foundation of the FirstNet program partnership, and its contents are proprietary, confidential, and highly sensitive. The FirstNet Authority has publicly shared

### FirstNet Program Oversight

The Act is clear that the FirstNet Authority is the entity specifically responsible for overseeing and managing the NPSBN.<sup>13</sup> At the same time, the FirstNet Authority is subject to several layers of oversight, as identified in the FirstNet Authority Response, including by its Board,<sup>14</sup> the Department of Commerce (DOC), the National Telecommunications and Information Administration, the FCC, Congress, the Government Accountability Office, and DOC Office of the Inspector General.<sup>15</sup> The idea that the FirstNet program is lacking in federal oversight is simply incorrect.

### FirstNet User Eligibility

As described in the FirstNet Authority Response, user eligibility determinations are made in accordance with the Act's definition of "public safety entity," which is inclusive of entities that support public safety response.<sup>16</sup> Under the statutory framework, FirstNet subscribers are divided into two categories with different eligibility criteria – Primary and Extended Primary.<sup>17</sup> This approach was based on extensive consultation with public safety stakeholders, including the

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non-confidential information about the contract, while also providing more detailed information to Congress and state, local, tribal, and public safety stakeholders where appropriate, and has offered to provide additional information to the Commission as needed.

<sup>13</sup> *See id.* § 1426(b)(1).

<sup>14</sup> The FirstNet Authority Board is comprised of three permanent federal members (Department of Homeland Security, Department of Justice, and Office of Management and Budget) as well as twelve non-permanent members appointed by the Secretary of Commerce who have public safety/telecommunications experience and expertise (including members who represent the collective interests of states, territories, tribes, and localities). *See* 47 U.S.C. § 1424(b); FirstNet Board Members, available at [Members | First Responder Network Authority \(firstnet.gov\)](https://www.firstnet.gov/members).

<sup>15</sup> *See* FirstNet Authority Response at 3.

<sup>16</sup> *See* FirstNet Authority Response at 3-4.

<sup>17</sup> These categories are the basis for determining public safety adoption targets under the NPSBN contract.

FirstNet Authority's Public Safety Advisory Committee. The fundamental point, as detailed in the FirstNet Authority Response, is that public safety users have the level of access and use of the network necessary for a given response (*i.e.*, Primary users always have priority and preemption, while Extended Primary users can be temporarily elevated by Primary users as needed).<sup>18</sup> For example, during or in the aftermath of a natural disaster, certain entities may be called upon to clear the debris (like a collapsed building) in aid of public safety response, and the decision may be made to provide those entities with heightened priority on the network. The T-Mobile Opposition and Joint Letter's suggestion that FirstNet limit public safety communications during emergency response<sup>19</sup> seems out of touch with public safety's mission and inconsistent with the public interest. Providing those critical services and capabilities when, where, and to whom they are needed is beneficial to public safety and serves the public interest.

#### *NPSBN Interoperability*

The FirstNet Authority reiterates, again, that *the NPSBN is interoperable per the requirements of the Act*.<sup>20</sup> Any suggestion otherwise is misleading at best. Communications are exchanged freely among FirstNet users across jurisdictions and public safety disciplines, as well as between FirstNet users and subscribers of other networks, and those communications receive the benefit of FirstNet's priority and preemption services while traversing the FirstNet

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<sup>18</sup> See FirstNet Authority Response at 3-4.

<sup>19</sup> See T-Mobile Opposition at 5, 7-9; Joint Letter at 4-5.

<sup>20</sup> See FirstNet Authority Response at 4-5.

network.<sup>21</sup> Further, as recounted in the FirstNet Authority Response, the FirstNet program has taken steps to expand interoperability beyond the requirements of the Act.<sup>22</sup>

### Public Safety Communications Marketplace

The suggestions in both filings that the FirstNet program is anti-competitive are without merit. In fact, the public safety communications marketplace is highly competitive, and the FirstNet program has only served to make it that much more so. For one, there is no mandate for public safety to use FirstNet, so public safety users must decide to subscribe, and FirstNet is an additional choice among multiple other services. The FirstNet program also has provided public safety-specific services, features, and capabilities that did not exist in the marketplace prior to its existence, helped drive further innovation in public safety communications, and driven costs down across all network providers of public safety services. Consequently, public safety entities have benefited from FirstNet regardless of whether they choose to subscribe.

## **2. T-Mobile Mischaracterizes the Applicable Standard of Review Under the Statute**

T-Mobile grossly misconstrues the standard of review and the Commission's role in examining the FirstNet Authority's license renewal application.<sup>23</sup> The T-Mobile Opposition would have the FCC second guess the decisions of Congress and the actions of the FirstNet Authority to implement those decisions for the NPSBN. Under the Act, the FirstNet Authority

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<sup>21</sup> As should be obvious, the FirstNet Authority has no control over the services provided while communications are traversing *other* networks.

<sup>22</sup> See FirstNet Authority Response at 4-5. The T-Mobile Opposition simply repeats arguments from another years-old FCC proceeding that has nothing to do with the FirstNet Authority's license renewal application hoping to get a favorable decision from the Commission here that it has not in that proceeding. See T-Mobile Opposition at 11-13.

<sup>23</sup> T-Mobile's references to other Commission licensee requirements are wholly inapplicable and irrelevant to the FirstNet Authority's Band 14 license. See T-Mobile Opposition at 5-6, 9-10. The standard of review for the FirstNet Authority's license is expressly established by statute and codified in Part 90 of the Commission's rules. See 47 U.S.C. § 1421(b)(2); 47 C.F.R. § 90.532.

has direct responsibility for the planning, implementation, and oversight of the NPSBN.<sup>24</sup> Accordingly, decisions about how the network is implemented and managed fall solely within the purview of the FirstNet Authority. Thus, suggesting that the Commission should impose conditions and restrictions on the FirstNet Authority's license, thereby limiting the way in which the FirstNet Authority can carry out its duties and responsibilities, conflicts with the express intent of the Act.<sup>25</sup> The relevant question for purposes of the license renewal application review is whether the FirstNet Authority complied with its statutory obligations, *not* whether the Commission or any other party would do it differently. The FirstNet Authority's Renewal Justification and Public Interest Statement clearly demonstrated that it has indeed satisfied each of those obligations,<sup>26</sup> and public safety commentors have not stated otherwise.<sup>27</sup>

Accordingly, the FirstNet Authority respectfully requests that the Commission unconditionally grant its application for renewal of the Station WQQE234 license.

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<sup>24</sup> *See id.* § 1422(a), 1426(a)-(c).

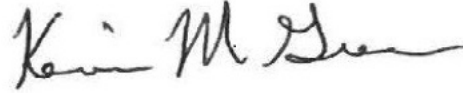
<sup>25</sup> The Commission has itself recognized that the FirstNet Authority is the NPSBN's "network architect and steward." *Procedures for Commission Review of State Opt-Out Requests from the FirstNet Radio Access Network*, Report & Order, 32 FCC Rcd 5311, ¶ 62 (June 22, 2017).

<sup>26</sup> *See* FirstNet Authority Renewal Application, Exhibit A to FCC Form 601 (filed Aug. 22, 2022).

<sup>27</sup> *See* Views of APCO International Regarding the Application for the Renewal of Station WQQE234 License, at 2 (filed Sept. 22, 2022) (stating that "APCO concurs with [the FirstNet Authority's] demonstration that it has met and continues to meet its statutory obligations" and the FirstNet Authority "has clearly demonstrated that the Commission should renew its license for an additional term.").

Respectfully submitted,

First Responder Network Authority

A handwritten signature in dark ink, appearing to read "Kevin M. Green". The signature is fluid and cursive, with the first name "Kevin" and last name "Green" being clearly legible, and "M." as a middle initial.

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Date: October 11, 2022




## CERTIFICATE OF SERVICE

I, Kevin Green, hereby certify that on this 11<sup>th</sup> day of October 2022 at 4:50 p.m., I caused a copy of the FirstNet Authority's Reply to "Opposition" Comments Regarding Its Application for the Renewal of Station WQQE234 License to be served, electronically via email, on the following:

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